knowledge of the usual course of the business in question or not, — whether he is misled by knowledge or by ignorance. But if estoppel is relied on to account for such responsibility, the principal would be liable only in the former case, since there must be a misrepresentation and a reliance thereon. 13 GREEN BAG, 50. In a recent article Mr. Ewart attempts to reinforce his position. *Estoppel by Assisted Misrepresentation*, by John S. Ewart. 35 AM. L. REV. 707 (Sept.–Oct.). The result of his argument is that persons who do not know the facts must succeed, if at all, by proving agency, whereas those who do know the facts may succeed (1) by proof of agency or (2) if there is no agency, then because of the appearance of it, by estoppel. But it is clear, since there is apparent authority, that the same evidence of the previous course of business which is necessary to prove agency in the former case will establish it in the latter, and that in every case of this class it requires the same proof to create an estoppel as it does to establish agency within apparent authority. Thus in the former case the principal's liability can be accounted for only on grounds of agency, whereas in the latter it rests upon agency or estoppel, whichever the third party may choose to invoke. *Pickering* v. *Bush*, 15 East 38; *Smith* v. *McGuire*, 3 H. & N. 554. In the second case, therefore, the two grounds, so far from excluding each other, exist side by side. The result is that while agency may be invoked to fix the responsibility of the principal in every case in this class, estoppel may, in a limited class of cases, be called in only to give the plaintiff an additional ground for recovery. If this be a correct definition of Mr. Ewart's final position, no exception to it can be taken. But it is to be noted that he thus makes a distinct limitation on the scope of his theory of estoppel, and confines its function within well recognized and proper limits. To found the principal's liability, however, upon estoppel alone is to disregard not only the doctrine that estoppel is to be invoked only when a just result can be reached in no other way, but also the historical fact that the doctrine of agency was well recognized long before courts began to use the language of estoppel.

HANDBOOK OF EQUITY JURISPRUDENCE. By James W. Eaton. St. Paul: West Publishing Co. Hornbook Series. 1901. pp. xviii, 734. 8vo.

It is a hard task to deal with so large a subject as that of equity jurisdiction in a single volume of the size of the one under consideration. As is said in the publishers' preface, "The chief difficulty arises from the great extent and variety of the subjects involved in the application of equitable doctrines," and this difficulty is apparent throughout. There is no space in which to discuss the rules laid down, and in consequence there is hardly an expression of the author's personal opinion to be found. The main principles are set forth and then various particular instances under each are stated. Every assertion of the author is supported by authorities, of which an enormous number are cited. Quotations from well known text writers also are freely inserted, to illustrate or explain, when they have hit on happy definitions or modes of expression. In this way a clear, concise statement of the law is obtained.

On the other hand, the almost entire lack of discussion makes the book hardly adequate to the needs of the beginner who wishes to acquire a thorough understanding of the subject. For the benefit of such, however, the early chapters treat the origin and history of equity, the general principles governing the exercise of the jurisdiction, and the important maxims. The growth of equity and its relation to law are shortly discussed, and the effect of modern legislation and the adoption of certain equitable principles by the common law courts are considered, in order to enable the reader to understand the true importance and limitations of this jurisdiction. Subsequently the special topics are taken up in

turn, and the bearing of the principles already stated is suggested. Many possible subjects of discussion are necessarily passed over, and in one instance at least the fact that there are two sides to a question is not suggested. Thus, on page 627, it is said that if the invalidity of an alleged cloud on title appears upon the face of the writing, there is no ground for invoking the aid of the court. In support of this assertion several New York cases and one Maine case are cited. No mention, however, is made of the fact that in Texas such a document, if made the ground of an actual claim, will be cancelled, and that in Rhode Island the court will enjoin an execution sale which would be clearly void, in spite of the fact that the deed if executed would on its face be invalid. The ground of such a decree is, of course, that the only effect of the sale and deed can be to diminish the value of the plaintiff's title. *Day Co.* v. *Texas*, 68 Tex. 526; *Linnell* v. *Battey*, 17 R. I. 241. Nevertheless, in spite of such slight omissions, the work in hand should be of great service to one not seeking to make a thorough study of the law, but wishing merely to learn how the authorities on a particular point stand, and it is in this way that the book is likely to find its chief field of usefulness.

THE LAW OF AGENCY. By Ernest W. Huffcut, Professor of Law in Cornell University. Second Edition. Boston: Little, Brown & Co. 1901. pp. li, 406. 8vo.

Prof. Huffcutt's earlier work on the law of agency has been perhaps appropriately termed a brief treatise or summary. His present work, however, may well be dignified with the title of text-book. It not only contains the earlier work in a carefully revised form, elaborated with whatever is of value in the more recent decisions but it also devotes an entirely new section, comprising about one third of the volume, to the law of master and servant. The author lays stress on the fact that much confusion is due to the failure to distinguish between an agent proper and a servant, and he exemplifies this truth by showing how much more intelligible the law may be rendered by well-correlated headings and subdivisions based on this distinction. Many doctrines in the law of agency are vague and ill-defined, and it is a delight to find an author who in setting forth those doctrines is clear and explicit without allowing himself to yield to the scholar's enthusiasm of indulging in metaphysics. Although the point of view of the work seems rather that of the practising lawyer, than that of the theorist, the treatment of the subject is none the less careful and thorough. One need only to read the section on ratification, or that on the principal's liability for the frauds of his agent, in order to be convinced. The author's discussion of the recent decision of *Keighley* v. *Durant*, in the House of Lords, may perhaps serve as an example. Almost all of the plausible theories advanced on the different topics of agency are concretely set forth in a clear and readable style. The work is therefore a distinct addition to the literature on this branch of the law, and is to be highly recommended both to the student and practitioner.

A DIGEST OF THE NEW YORK CODE OF CIVIL PROCEDURE. Being a Synopsis of the Chapters of the Code relating to General Practice. Edited by Charles W. Disbrow. Second Edition. Albany: Matthew Bender. 1901. pp. 151.

The absolute impossibility of a beginner's gaining any clear idea of the principles and provisions of the New York Code from a study of that instrument itself is too well known to need comment. There is thus a ready field for such a work as the present little volume which most admirably fulfils its purpose. As the author says in his brief preface, he has striven to make the law student's way more easy by explaining the difficult and technical passages, and by bringing together in their proper order and in a concise form all the widely separated sections relating to the same subject. This difficult task